

# **FORCIBLE ENTRY AND DETAINER (EVICTION)**

**DISCLAIMER:** *This is information about forcible entry and detainer. This in no way is intended to be a complete description of the process or legalities of eviction. Citizens are responsible for preparing their own paperwork and/or should consult with a lawyer to pursue this remedy. The Campbell County Sheriff's Office and Circuit Court do not provide forms. The Campbell County Sheriff's Office cannot provide legal advice or representation and in no way is responsible for any consequences that may arise from persons representing themselves in such actions.*

**1. Proceedings for Forcible Entry and Detainer are allowed when:**

- a. Tenants hold over their term or after failure to pay rent for three (3) days after it is due;
  - b. In sales of real estate on executions, orders, or other judicial processes, including proceedings for the foreclosure of a mortgage by court action, when the judgment debtor was in possession at the time of rendition of the judgment or decree by virtue of which the sale was made;
  - c. When real estate has been sold under a power of sale contained in any mortgage or trust deed and the purchase or his assignee has demanded possession;
  - d. Any sale by executors, administrators, guardians, or on partition where any of the parties to the petition were in possession at the commencement of the suit, after the sale has been examined by the proper court and adjudged legal;
  - e. In cases where the defendant is a settler or occupier of lands or tenements, without color of title, to which the complainant has the right of possession.
- W.S. §1-21-1002

**2. Procedure:**

- a. **Notice to Quit.** Landlord must provide written notice to quit (leave the premises) to the tenant three (3) days before initiation of the eviction action. This notice may be delivered in person to the tenant, by leaving it at the tenant's residence, or by leaving it at their place of work if they cannot be found. W.S. §1-21-1003
  - b. **Filing in Circuit Court.** If the tenant does not leave, then the landlord must file a *Summons and Complaint* for a *Writ of Restitution* with the Campbell County Circuit Court. The court will set a court date and issue a *Summons*. There is a filing fee of \$10.00 (ten dollars). The *Summons and Petition* must be served on the tenant by the Sheriff's Office or a private process server appointed for that purpose. There is a fee of \$50.00 (fifty dollars) to have this served. The *Summons and Petition* must be served on the tenant at least three (3) days and not more than twelve (12) days before the court date. W.S. §1-21-1004
  - c. At the trial, the court can do the following:
    - i. Find the complaint is unfounded and charge the plaintiff with costs;
    - ii. Find the complaint is founded and enter a *Writ of Restitution* of the premises and costs.
    - iii. Find the complaint is true in part;
    - iv. Enter judgment for rent due, with costs and issue a *Writ of Execution* separate from the *Writ of Restitution* for the rent due and costs.
- W.S. §1-21-1008

d. ***Writ of Restitution.*** If the court issues a *Writ of Restitution*, it will be delivered to the Sheriff's Office for service on the tenant. The Sheriff's Office will serve the *Writ of Restitution* within two (2) days of receiving it (Sundays excluded) and stand by while the landlord and locksmith are present to change locks. The Sheriff's Office personnel will not remove a tenant's property to the street. The landlord is responsible for the tenant's property if it is not removed from the residence by the tenant. If the court issued a *Writ of Execution* at the same time then the Sheriff's Office will proceed with paragraph (e). If no *Writ of Execution* was entered, the landlord may wish to pursue a judgment for the back rent from the court.

e. ***Writ of Execution.*** If the court also entered a judgment for rent and issued a *Writ of Execution*, the Sheriff's Office will serve the execution at the same time as the *Writ of Restitution*. It is the responsibility of the landlord to make arrangements for locksmiths, moving and storing the tenant's property. These arrangements should be made prior to bringing the *Writ of Execution* to the Sheriff's Office. The Sheriff's Office will not provide movers, storage or break into a locked residence. Locksmiths, moving and storing companies must be bonded. The Sheriff's Office will take control of the storage facility until the sheriff's sale is held.

**IF YOU ARE UNSURE ABOUT THIS PROCEDURE,  
YOU SHOULD CONSULT AN ATTORNEY FOR THE FULL EXPLANATION OF  
YOUR RIGHTS AS A LANDLORD OR TENANT.**



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